



**Planning &  
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August 20, 2019

Attn: John Ballantine  
Municipal Finance Policy Branch  
Ministry of Municipal Affairs and Housing  
777 Bay Street, 13th floor  
Toronto, ON  
M5G 2E5

Submitted online via Environmental Registry of Ontario and by mail.

**Re: ERO No. 019-0183 – Proposed new regulation pertaining to the community benefits authority under the *Planning Act***

**ERO No. 019-0184 – Proposed changes to O. Reg. 82/98 under the *Development Charges Act* related to Schedule 3 of Bill 108 - *More Homes, More Choice Act*, 2019**

To whom it may concern:

ERO No. 019-0183 and 019-0184 were posted on June 21, 2019 requesting comments on a proposed new regulation under the *Planning Act* and proposed changes to an existing regulation under the *Development Charges Act* be submitted by August 21, 2019.

Thank you for providing the Town with the opportunity to comment on the proposed regulations. These comments have been prepared by staff representatives from the Town's Planning and Development Services, and Finance Departments.

The Town previously submitted comments on May 31, 2019 to the Ministry of Municipal Affairs and Housing in response to Bill 108, and the associated Environmental Registry of Ontario postings. The following comments reiterate some of the Town's previous comments, and also include additional comments for matters where more information has been outlined in the regulations' proposal summaries.

1. Prescribed Community Benefit Charge Date

The proposal summaries identify a prescribed date of January 1, 2021 for municipalities to transition to the community benefits charge. Given we are nearing the end of 2019 and a CBC Cap formula has yet to be proposed, evaluated and commented on, this does not provide enough time for municipalities to obtain the appropriate resources (internal and external) to complete the required work in the currently prescribed timeframe.

The process to review the Town's Development Charge (DC) By-law took 1 year to complete with the help of a consultant; excluding time associated with acquiring the services of a consultant through a municipal procurement process (~3 months). Further, this was an update

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to an existing by-law and was not the formation of a new by-law (which would likely take 2 or more years). Most municipalities rely on the services of consultants specialized in the application of planning and development charge legislation to complete background studies; it will be difficult for the limited number of consultants to prepare such studies for all Ontario municipalities requiring them in time for a January 1, 2021 implementation date.

The existing DC By-law will have to be amended to eliminate the “soft services” and implement required changes and definitions as prescribed in Bill 108 and associated regulations. This will require some time to review, consult and finalize. Mandatory, planned reviews of Development Charge By-laws are already built into work plans and the capital budget program. Allowing municipalities to complete a CBC By-law in conjunction with the next DC Background Study and By-law Review will allow for the seamless integration of the CBC By-law and revised DC By-law.

**Comment:** That the Province abandon the prescribed date of January 1, 2021 to transition to the community benefit charge, as proposed, and require municipalities to develop and implement CBC By-laws during their next DC By-law Review to ensure that there is no gap in the ability to collect for “soft” services.

## 2. Community Benefits Charge (CBC) Formula

The Town's comments in response to Bill 108 urged the Province to enshrine revenue neutrality in the proposed legislation to protect taxpayers in growing municipalities. The Town identified that:

- approximately 25% of the Town's portion of forecasted development charges apply to support “soft services” such as recreational facilities, park construction, libraries, and associated debt repayment and studies;
- land values vary greatly regionally and fluctuate with market forces, while costs associated with the construction of community facilities or parks are generally more closely aligned regionally;
- basing a percentage on land value at time of building permit is less predictable when compared to the current development charge scheme that is forecasted during 5 year intervals; and
- the elimination of the alternative parkland rate (1 hectare per 300/500 dwelling units) would create a system that is not representative of the parkland needs of residents living in medium and high density developments, which generally have little to no outdoor amenity space.

As a result of the foregoing, the Town did not support the creation of a Community Benefit Charge, which combines Section 37, Sections 42 and 51.1, and the collection of “soft service” development charges into a single payment based on the value of land. The Town maintains this position.

In order to remain revenue neutral, a CBC charge would need to allow municipalities to collect an amount equal to the amount previously collected for “soft service” development charges, parkland dedication (including the alternative calculation), and any amount previously collected under a Section 37 agreement.

**Comment:** In order for the CBC to remain revenue neutral, a proposed formula would need to consider:

- Applying independent percentages for different municipalities, including the ability to apply area specific percentages in high growth areas (e.g. intensification areas that have little parkland or greenfield areas that have no community centres and parks) within a municipality.
- As previously identified by the Town in comments submitted to the Province, land values between downtown Toronto and Ajax vary greatly. However, the cost of construction of a community centre are much more closely aligned. Differences in regional and local land values need to be considered in the formula and setting different percentages.
- A proposed formula needs to consider the value of land and/or revenue currently collected through the parkland dedication sections within the *Planning Act*, including the alternative parkland calculation of 1 hectare per 300/500 dwelling units. Without the continued conveyance of parkland and/or collection of money in lieu at the alternative rate, intensification areas will experience deficiencies in parkland. As residential units become smaller and populations increase in intensification areas there will be a greater need of parkland. By not including the alternate parkland calculation, these areas will not transition into complete communities that provide a desirable and healthy quality of life.
- Development charges are currently collected on a per unit basis. Using land value to determine a CBC charge does not guarantee that development charges collected would be representative of the number of units being provided. Increased land costs associated with planning approvals for site development will not necessarily be reflective of the community infrastructure needs of a medium or high density development. Therefore, any proposed formula needs to be reflective of the number of dwelling units being proposed within a development.

### 3. Other Considerations in the Development of the Community Benefit Charge Regulation

**Comment:** Through the review of Bill 108, the Town has identified other comments that need to be considered while preparing the CBC Regulation, including:

- Bill 108 currently identifies that “the owner of land may provide to the municipality facilities, services or matters” as an in-kind contribution. For greater certainty, the regulation should allow municipalities to accept the conveyance of parkland as an ‘in kind’ contribution.
- The proposed formula and regulation need to allow the collection and payment towards ongoing debt associated with the construction of projects normally paid for by Development Charges, such as community centres and libraries.
- The CBC regulation should allow the Council of a municipality to apply an exemption from the payment of all or part of a CBC through a municipal by-law, in order to fulfill specified objectives. For example, municipalities may currently establish Community Improvement Plans to encourage certain types of

development by providing various incentives within a strategic area, such as reduced or waived development charges. This ability should be maintained through the CBC By-law.

- Costs required to complete studies that support both non-discounted and discounted services need to be eligible to be funded from both Development Charges and CBC. For example, the Official Plan Review supports both hard and soft services, and should be funded from both Development Charges and CBC payments.

#### 4. Development Charge Exemption

The Minister is proposing that the following developments be exempt from a CBC:

- Long-term care homes
- Retirement homes
- Universities and colleges
- Memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion
- Hospices
- Non-profit housing

Although the Town sees the benefit of exempting some facilities listed, definitions for the types of establishments to be exempted from a CBC strategy need to be refined to exclude for-profit developments in order to improve the ability to achieve the Province's goal of revenue neutrality. For example, privately-owned retirement homes that do not provide affordable housing, and privately-funded schools should not be exempt from payment. These developments should pay for the growth-related infrastructure and services they are requiring from communities.

Compensation measures to offset all currently proposed CBC exemptions, but more specifically for Retirement homes, Universities and Colleges, and Non-profit housing, from which municipalities currently collect, are needed. If no compensating measures are included in the CBC formula municipalities will increasingly have to turn to the tax base for growth related funding shortfalls.

**Comment:** Definitions should be included such that only Retirement Homes that provide affordable housing, and only provincially funded Universities and Colleges should be exempt from paying CBC. Compensation measures to offset proposed CBC exemptions are needed, otherwise the tax base will need to fund growth related funding shortfalls.

#### 5. Development Charge Deferrals

The Minister had stated that the "More Homes, More Choice outlines [the] government's plan to tackle Ontario's housing crisis and encourages our partners to do their part by starting now, to build more housing that meets the needs of the people in every part of Ontario." The Town had previously identified that if the purpose of the legislation is to provide more housing, it is unclear why commercial, institutional and industrial development would also be permitted to pay DC's in installments over a six year period. The Town commented that the legislation should focus on providing incentives for rental and non-profit housing. The Town maintains this position.

**Comment:** That permissions to allow commercial, industrial and institutional development to pay development charges in installments be removed from the regulation as this does not achieve the stated goal of providing more housing quickly.

## 6. Development Charge Freeze

The Town had previously commented that locking in the DC rates well in advance of the building permit issuance would produce a shortfall in DC revenue, would make it more difficult for municipalities to provide infrastructure to support growth, and may actually delay the delivery of some services. Additionally, although locking in DC rates provides cost predictability from a developer's standpoint, it eliminates the financial incentive for applicants to follow through on *Planning Act* applications and building permits in a timely manner, creating an administrative burden to manage and monitor the status of applications. This further strains municipal resources and will ultimately delay the delivery of housing.

The proposed regulation would freeze development charges for two years from the date that a site plan application and/or zoning by-law amendment application is approved. As development charges are established on the date of submission of certain planning applications (site plan and zoning by-law amendment application), the freeze should begin on the date that the complete application is submitted and not the date that the planning application is approved.

**Comment:** The development charge freeze outlined in the proposed regulation should be frozen for two years from the date that complete applications (Zoning By-law Amendment and Site Plan Approval) are submitted, and not the date that the applications are approved.

Further, the proposed legislation is unclear as to what happens following the expiry of the 2 year freeze. The regulation should be clear to state that following a 2 year freeze, the Development Charge rate in effect at the time of issuance of the building permit (for applications under Section 26 of the DC Act), or at time of occupancy (for applications under Section 26.1 of the DC Act), would apply.

**Comment:** That the regulation outline that following the expiry of a 2 year freeze of the applicable Development Charge, that the Development Charge rate in effect at the time of issuance of a building permit (for applications under Section 26 of the DC Act), or at time of occupancy (for applications under Section 26.1 of the DC Act), shall apply.

## 7. Non-application of Community Planning Permit System

The proposal summary indicates that the CBC would not apply in an area where a Community Planning Permit System (CPPS) is in effect. Recognizing the need to remain revenue neutral, the ERO proposal summary states "in determining the prescribed percentage [for the Community Benefit Charge] there are two goals, firstly, to ensure that municipal revenues historically collected from development charges for 'soft services', parkland dedication including the alternative rate, and density bonusing are maintained." This same goal should apply in areas where a CPPS is in effect. The following is an overview of why not permitting the CBC to be collected in a CPPS area would not maintain historical municipal revenues:

- O.Reg 173/16 under the *Planning Act* outlines conditions that can be included in a CPPS By-law including the application of any condition in accordance with Section 42 of the *Planning Act*. Bill 108 removed the alternative parkland calculation from Section 42 of the *Planning Act*. As a result of changes to Section 42 of the *Planning Act*, the



alternative parkland calculation cannot be collected as a condition of a CPPS By-law; and therefore the Province's goal of maintaining historic revenue levels cannot be achieved.

- O.Reg 173/16 under the *Planning Act* allows conditions to be applied requiring community facilities and services in exchange for height and density, within development standards or variations to those standards. The CPPS is not inherently a tool to recover growth-related costs, rather it is a tool to guide development in a specified area. Municipalities will not be able to collect sufficient funds (for facilities and services) that match historical revenue collected from DC's for 'soft services' in CPPS areas.

Additionally, municipalities are not required to include variations to height and density in their CPPS By-laws; where municipalities choose to include variations and require community benefits in exchange, is similar to the previous Section 37 (height and density bonusing) provision in the *Planning Act*. Not allowing municipalities to collect CBC in CPPS areas promotes a system that encourages municipalities to downzone, a big reason why s.37 in the *Planning Act* was viewed less favourably, in order to match historical revenue previously paid for by DC's and/or s.37.

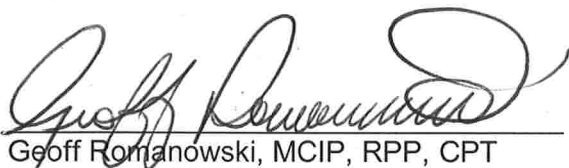
The CPPS tool not only promotes good urban design and built form, it creates a streamlined process that can help deliver housing more quickly. By not allowing the collection of a CBC in CPPS areas discourages municipalities from implementing a CPPS as it would impede a municipality from collecting money to provide parkland and community facilities in these areas.

**Comment:** In order to encourage municipalities to implement Community Planning Permit System By-laws and to ensure that municipal revenues collected from development charges for "soft services", parkland dedication including the alternative rate, and density bonusing are maintained, any Community Benefit Charge needs to apply to areas where a Community Planning Permit System By-law is in effect.

The Town would like to reiterate that it is imperative that the Province enshrine revenue neutrality in the proposed regulations and new funding mechanisms in order to protect taxpayers in growing municipalities. Without revenue neutrality, taxpayers will be required to fund growth, which does not promote the Province's goal of ensuring that housing remains affordable as property taxes would need to be increased.

Thank you again for providing the Town with the opportunity to comment and for your consideration of these comments. Should you have any questions please contact Sean McCullough, Senior Planner at [Sean.mccullough@ajax.ca](mailto:Sean.mccullough@ajax.ca) or (905) 619-2529 ext. 3234 and he will endeavour to coordinate a response.

Regards,



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